

PHYSICIAN ASSISTANT EXAMINING COMMITTEE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the
Accusation Against:

John H. Cates, P.A.
License No. PA 10552

Respondent

1E-93-32049

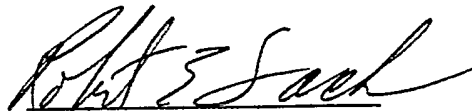
DECISION

The attached STIPULATION is hereby adopted by the Physician Assistant Examining Committee of the Medical Board of California as its Decision in the above-entitled matter.

This Decision shall become effective on November 1, 1995.

IT IS SO ORDERED October 3, 1995.

PHYSICIAN ASSISTANT EXAMINING COMMITTEE
MEDICAL BOARD OF CALIFORNIA



ROBERT SACHS, PA-C
CHAIRPERSON

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 JANA L. TUTON, Supervising
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Physician Assistant Examining Committee

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BEFORE THE
PHYSICIAN ASSISTANT EXAMINING COMMITTEE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation) No. 1E-93-32049
Against:)
JOHN H. CATES)
6501 SCHIRRA COURT, STE. 250)
BAKERSFIELD, CA 93313)
Physician Assistant)
License No. PA-10552)
Respondent.)

The parties to this action stipulate and agree as follows:

1. Respondent John H. Cates (hereinafter "respondent") was heretofore issued Physician Assistant License No. PA-10552 under the laws of the State of California. Said license is presently current and in full force and effect.
2. On or about November 14, 1994, an accusation bearing number 1E-93-32049 was filed by Roy E. Dale, Executive Officer of the Physician Assistant Examining Committee, in his official capacity as such. The Accusation alleged causes of disciplinary action against respondent, and is incorporated

1 hereby by reference as though fully set forth at this point.

2 Accusation number 1E-93-32049 alleges that respondent is subject
3 to disciplinary action pursuant to Business and Professions Code
4 section 2234. Respondent was duly and properly served with
5 Accusation number 1E-93-32049 by certified mail.

6 3. Respondent has read and understands the charges
7 contained in the Accusation. Respondent understands that the
8 charges, if found to be true, constitute cause for disciplinary
9 action. Respondent has had the opportunity to consult counsel
10 concerning the charges and allegations contained in the
11 Accusation and the effect of this stipulation. To the extent
12 respondent has not exercised his right to consult counsel, he has
13 done so knowingly, freely and voluntarily.

14 4. Respondent understands that he has a right to a
15 hearing on the charges contained in the Accusation, to the
16 opportunity to be defended against the charges contained herein,
17 to reconsideration, to appeal, and to any and all rights accorded
18 him the California Administrative Procedures Act, the California
19 Code of Civil Procedure and the other laws of the State of
20 California pertaining to Accusation No. 1E-93-32049. Respondent
21 hereby knowingly, freely and voluntarily waives those rights in
22 order to enter into this stipulation as a resolution of the
23 pending Accusation against him.

24 5. Respondent admits for the purpose of this
25 proceeding and any other proceeding before the Committee or any
26 other action taken by and before any governmental body
27 responsible for licensing that he is subject to disciplinary

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1 action for violation of Business and Professions Code section
2 2234 for the following:

3 A. Respondent has subjected his license to
4 discipline under Business and Professions Code section 2234 on
5 the grounds of unprofessional conduct as defined in section
6 2239(a) of that code in that in 1992, while employed by John
7 Parks, M.D., as a physician assistant in Bakersfield, California,
8 he prescribed for himself Vicodin, a controlled substance, by
9 instructing office staff, at the medical practice of John Parks,
10 M.D., to telephone in prescriptions for vicodin in respondent's
11 name for administration to himself.

12 B. Respondent has subjected his license to
13 discipline under Business and professions Code, section 2234, on
14 the grounds of unprofessional conduct as defined in section 2238
15 of that code in that in 1992 he violated Health and Safety Code
16 section 11173(a) by obtaining Vicodin, a controlled substance, by
17 fraud, deceit, misrepresentation or subterfuge when he instructed
18 office staff, at the medical practice of John Parks, M.D., to
19 telephone in prescriptions for vicodin in respondent's name for
20 his own personal use.

21 6. Based on the foregoing stipulation, the Physician
22 Assistant Examining Committee may issue the following order:

23 A. The license to practice as a physician
24 assistant in the State of California issued to respondent is
25 hereby revoked, provided, however, that execution of this order
26 of revocation is stayed and respondent is placed on probation for
27 four (4) years upon the following terms and conditions:

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(1) (a) Drugs and Abstain From Use.

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, and the dangerous drugs as defined by Section 4211 of the Business and Professions Code, or any drugs requiring a prescription.

(b) Orders forbidding respondent from

personal use or possession of controlled substances or dangerous drugs do not apply to medications lawfully prescribed to respondent for bona fide illness or condition by another practitioner.

(2) (a) Controlled Drugs - Maintain Record.

Respondent shall maintain a record of all controlled substances administered, transmitted orally or in writing on a patient's record or handed to a patient by the respondent during probation showing all the following: 1) the name and address of the patient, 2) the date, 3) the character and quantity of controlled substances involved, and 4) the indications and diagnosis for which the controlled substance was furnished, and 5) the name of supervising physician prescriber.

(b) Respondent shall keep these records in a

separate file or ledger, in chronological order, and shall make them available for inspection and copying by the Physician Assistant Examining Committee or its designee, upon request and without charge.

(3) Biological Fluid Testing. Respondent

shall immediately submit to biological fluid testing upon the request of the Physician Assistant Examining Committee or its

1 designee. The cost of biological fluid testing shall be borne by
2 respondent.

3 (4) Diversion Program. Within 30 days of
4 the effective date of this decision respondent shall be reviewed
5 by the Diversion program of the Physician Assistant Examining
6 Committee to determine if respondent is eligible for the
7 Diversion program. Should the Diversion program determine that
8 respondent is eligible respondent shall enroll in and participate
9 in the Diversion's Program until the committee determines that
10 further treatment and rehabilitation is no longer necessary.
11 Quitting the program without permission or being expelled for
12 cause shall constitute a violation of probation by respondent.

13 (5) Ethics Course. Within three months of
14 the effective date of this decision, respondent shall submit to
15 the Committee or its designee for its prior approval a course in
16 ethics, which respondent shall successfully complete during the
17 first year of probation. Respondent shall participate in this
18 ethics course at his own expense.

19 (6) (a) Monitoring/Supervision. Within 30
20 days of the effective date of this decision, respondent shall
21 submit to the Committee or its designee for its prior approval a
22 plan of practice in which respondent's practice shall be
23 monitored by an approved supervising physician responsible for
24 patients treated by the physician assistant.

25 (b) If the supervising physician/monitor
26 resigns or is no longer available, respondent shall, within 15
27 days, move to have a new supervising physician/monitor appointed,
28 through nomination by respondent and approval by the Committee.

1 (c) Respondent shall not practice as a
2 physician assistant until a supervising physician is approved by
3 the Committee.

4 (7) Notification of Employer and Supervising
5 Physician. Respondent shall notify his current and any
6 subsequent employer and supervising physician(s) of his
7 discipline and provide each a copy of the Stipulation, Decision,
8 and Order to each such employer and supervising physician(s)
9 during his period of probation, at onset of that employment.
10 Respondent shall ensure that each employer informs the Physician
11 Assistant Examining Committee, or its agent, in writing within
12 thirty (30) days, verifying that the employer and supervising
13 physician(s) has been informed of this Stipulation and Order.

14 (8) Obey All Laws. Respondent shall obey
15 all federal, state and local laws, and all rules governing the
16 practice of medicine in California.

17 (9) Quarterly Reports. Respondent shall
18 submit quarterly declarations under penalty of perjury on forms
19 provided by the Committee, stating whether there has been
20 compliance with all conditions of probation.

21 (10) Surveillance Program. Respondent shall
22 comply with the Committee's probation surveillance program.

23 (11) Interview with Medical Consultant.
24 Respondent shall appear in person for interviews with the
25 Committee's medical consultant upon request at various intervals
26 and with reasonable notice.

27 (12) Tolling for Out-of-State Practice of
28 Residence. The period of probation shall not run during the time

ATTORNEY GENERAL'S OFFICE TEL: 1-910-324-2500 FAX: 1-910-324-2500
1 respondent is residing or practicing outside the jurisdiction of
2 California. If, during probation, respondent moves out of the
3 jurisdiction of California to reside or practice elsewhere,
4 respondent is required to immediately notify the Committee in
5 writing of the date of departure, and the date of return, if any.

6 (13) Initial probation Interview. Respondent
7 shall appear in person for an initial interview with a designee
8 of the PAEC within 90 days of the final decision. Respondent
9 shall subject himself to an initial interview at a time and place
10 determined by the committee or its designee.

11 (14) Unannounced Clinical Site Visit. If
12 respondent violates probation in any respect, the Committee,
13 after giving respondent notice and the opportunity to be heard,
14 may revoke probation and impose the revocation that was stayed.
15 If an accusation or petition to revoke probation is filed against
16 respondent during probation, the Committee shall have continuing
17 jurisdiction until the matter is final, and the period of
18 probation shall be extended until the matter is final.

19 (15) Completion of Probation. Upon
20 successful completion as determined by the Committee's executive
21 officer, respondent's license will be fully restored.

22 (16) Violation of Probation. If respondent
23 violates probation in any respect, the Committee, after giving
24 respondent notice and the opportunity to be heard, may revoke
25 probation and carry out the disciplinary order that was stayed.
26 If an accusation or petition to revoke probation is filed against
27 respondent during probation, the Committee shall have continuing

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1 jurisdiction until the matter is final, and the period of
2 probation shall be extended until the matter is final.

3 (17) Reimbursement of PAEC. As a condition
4 of probation, respondent shall reimburse the Committee for the
5 investigative and enforcement costs in the amount of \$6,600.81.

6 Respondent shall pay the above amount within 24 months
7 from the effective date of the decision. Respondent shall pay
8 one half of the above amount within twelve (12) months from the
9 effective date of the decision and the remaining one half of the
10 above amount within the following twelve (12) months. Failure to
11 comply with this requirement shall be considered a violation of
12 probation.

13 7. Respondent acknowledges that he shall not be
14 allowed to withdraw from this stipulation unless it is rejected
15 by the Physician Assistant Examining Committee.

16 8. It is agreed that the terms set forth herein shall
17 be null and void and not binding upon the parties hereto unless
18 approved by the Physician Assistant Examining Committee.

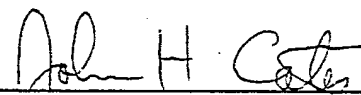
19 DATED: 6-13-95

20 DANIEL E. LUNGREN, Attorney General
21 of the State of California
22 JANA L. TUTON, Supervising
Deputy Attorney General

23 By: 

24 DANIEL J. TURNER
Deputy Attorney General

25 DATED: June 9, 1995

26 
27 JOHN H. CATES
28 Respondent